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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention

Second periodic reports of States parties due in 2017

Mauritania*, **

[Date received: 27 January 2017]

* The initial Report of Mauritania is contained in document CAT/C/MRT/1; it was considered by the Committee at its 1138th and 1141st meetings, held on 8 and 10 May 2013 (CAT/C/SR.1138 and 1141). For details of its consideration, see the Committee's concluding observations (CAT/C/MRT/CO/1).

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Abbreviations

ANRPTS	Agence Nationale du Registre des Populations et des Titres Sécurisés [National Agency for the Registration of Persons and Secure Documents]
CCP	Commission de Contrôle des Prisons [Prison Monitoring Committee]
CPP	Code de Procédure Pénale [Code of Criminal Procedure]
DAPAP	Direction des Affaires Pénales et de l'Administration Pénitentiaire [Office of Criminal Affairs and Prisons Administration]
IGAJP	Inspection Générale de l'Administration Judiciaire et Pénitentiaire [General Inspectorate of Court and Prison Administration]
JORIM	Journal Officiel de la République Islamique de Mauritanie [Official Gazette of the Islamic Republic of Mauritania]
NPM	National Preventive Mechanism against Torture
ONA	Ordre National des Avocats [National Bar Association]
PG	Parquet Général [Prosecutor-General's Office]

Introduction

1. The present replies to the list of issues drawn up by the Committee against Torture serve as the second periodic report of Mauritania under article 19 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

1. Definition and criminalization of torture

(a) The Committee recommends that the State party amend its Criminal Code to include a definition of torture that incorporates all the elements of torture defined in article 1 of the Convention, together with provisions which classify acts of torture as a criminal offence that is subject to penalties commensurate with the gravity of such acts.

2. On 17 November 2004, Mauritania acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol. The implementation of these two instruments was reflected in the adoption in 2015 of a law criminalizing torture and a law on the establishment of a national mechanism for the prevention of torture.

3. The law criminalizing torture punishes it as a crime against humanity in accordance with the provisions of the Constitution. It defines and classifies torture as an imprescriptible crime against humanity, in order that those who perpetrate it may be punished appropriately. The law incorporates the provisions of the Convention with regard to the prevention of torture and redress for its victims.

4. The law defines the terms and mechanisms that enable the judicial authorities to combat torture. It ensures the prevention of torture through fundamental guarantees regarding:

- The deprivation of liberty
- The prohibition of unlawful detention
- The admissibility of statements made under torture
- Education on the prohibition of torture
- The monitoring of detention

5. It punishes torture by requiring that allegations are systematically and impartially investigated, it defines the corresponding penalty and the aggravating circumstances, it prohibits incommunicado detention and does not allow any justification for torture.

6. To ensure that the public authorities can take effective action in the fight against torture, the law contains provisions concerning legal jurisdiction, the refusal of extradition owing to a risk of torture, and mutual legal assistance.

7. The protection and support provided to victims of torture, witnesses and those conducting investigations and to their families, as well as the redress due to victims, are governed by regulations.

(b) The State party should expedite its legislative reform process and take the necessary steps to promulgate and publish the above-mentioned law of March 2013 in order to fill the existing legal void. It should also make a determined effort to disseminate the contents of this law widely and to provide special training on this law to security and law enforcement personnel.

8. The law of March 2013 has been repealed and replaced by Act No. 2015-033 of 10 September 2015 on Combating Torture, repealing and replacing Act No. 2013/011 of 23 January 2013 on Punishment of the Crimes of Slavery and Torture as Crimes against Humanity.

9. This Act was published in the Official Gazette.

10. The Ministry of Justice has organized several seminars to raise awareness of the Act among persons involved in the administration of justice and officers of the court (lawyers, judges, registrars, bailiffs, notaries, police officers and gendarmes in courts of appeal).

11. The National Bar Association has also helped to raise awareness of the Act through a series of conferences on the subject of torture.

2. Allegations of torture and ill-treatment

(a) The State party should give clear, official instructions to members of the security forces (police and gendarmerie) which state that the prohibition of torture is absolute, that it is a criminal offence and that the perpetrators of such acts will be prosecuted and receive punishments commensurate with the gravity of the offence.

12. The opening ceremony of the 2016 judicial year was dedicated to the subject of the fight against torture. The prosecutor's office has trained police officers in complying with the statutes and regulations prohibiting the use of torture.

(b) The State party should take effective steps to ensure that thorough, independent and impartial investigations are conducted, without delay, into all allegations of torture or ill-treatment, that the perpetrators of such acts are brought before the courts and that appropriate penalties are imposed upon them.

13. In accordance with the Act on Punishment of the Crimes of Slavery and Torture, the competent judicial authorities systematically initiate an impartial investigation whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been attempted or committed within their jurisdiction, even when no complaint has been received.

14. Anyone who claims to have been subjected to torture may make a complaint to the competent authorities.

15. In addition, the National Preventive Mechanism against Torture (NPM) helps to ensure that allegations of torture are investigated. It has competence:

(a) To carry out regular scheduled or unscheduled visits, without notice, at any time and in any place where there are or may be persons deprived of their liberty, in order to determine the conditions in which detainees are held and ensure that they have not been subjected to torture or other cruel, inhuman or degrading treatment or punishment.

(b) To regularly examine the treatment of persons deprived of their liberty in places of detention as defined in article 2, with a view to strengthening, if necessary, their protection from torture, cruel, inhuman or degrading treatment or punishment.

(c) To receive complaints and allegations of torture and other cruel, inhuman or degrading treatment or punishment occurring in places where persons are deprived of liberty and to transmit such complaints and allegations to the administrative and judicial authorities or other institutions with competence to investigate them.

(d) To advise on draft laws and regulations on the prevention of torture and degrading practices.

(e) To draw up recommendations intended to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into account the relevant standards of the United Nations, and to monitor their implementation. In this regard, the relevant State agencies initiate a constructive dialogue with the NPM and respond to the recommendations that it has made within one (1) month.

(f) To raise the awareness of the actors concerned about the harmful effects of torture and other cruel, inhuman or degrading treatment or punishment.

(g) To create a database so that the NPM has statistics that may be used in carrying out the tasks assigned to it.

(h) To carry out and publish research, studies and reports on the prevention of torture and degrading practices.

(i) To work with civil society and institutions combatting torture.

(j) To publish an annual report on the activities of the NPM that is submitted to the President of the Republic. This report is also submitted to the National Assembly and the Senate. The report is made public.

(c) The State party should take all necessary steps to ensure that confessions obtained under torture are not used as evidence against the authors of such confessions during investigations or trials.

16. The Act on Punishment of the Crimes of Slavery and Torture provides that: "Any statement established to have been made under torture may not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."

17. Likewise, the preambular article of the Code of Criminal Procedure provides that "any confession obtained under torture, violence or duress is inadmissible".

(d) The State party should raise judges' awareness of their obligation to open inquiries into any allegations of torture which are brought to their attention.

18. Several national and regional seminars and workshops have been held for magistrates and registrars on handling allegations of torture and protecting prisoners in police custody.

3. Direct application of the Convention by domestic courts

(a) The State party should incorporate the obligations prescribed by the Convention into its national legislation. It should also make certain that public officials, judges, magistrates, prosecutors and attorneys receive training that covers the provisions of the Convention so that they will be in a position to apply them directly and to assert the rights they establish before the courts of the State party.

19. The Convention was published in the Official Gazette of the Islamic Republic of Mauritania No. 1326 of 9 December 2014. Its provisions were incorporated into domestic law by Act No. 2015-033 of 10 September 2015 on Combating Torture, repealing and replacing Act No. 2013/011 of 23 January 2013 on Punishment of the Crimes of Slavery and Torture as Crimes against Humanity.

4. Fundamental legal safeguards

(a) The State party should immediately take effective steps to ensure that all persons who are deprived of their liberty have the benefit of all the following fundamental legal safeguards from the moment that they are taken into police custody: (i) The right to be informed of the reasons for their arrest; (ii) The right to have prompt access to independent legal counsel from the moment that they are deprived of their liberty and, if necessary, to legal aid; (iii) The right to be examined by an independent physician and to contact a family member; and (iv) The right to be brought before a judge without delay and to have the legality of their detention examined by a court in accordance with international standards.

20. Article 4 of the Act on Punishment of the Crimes of Slavery and Torture as Crimes against Humanity enshrines the fundamental safeguards that apply to the deprivation of liberty.

"From the moment that a person is deprived of his or her liberty, fundamental safeguards must be implemented, including:

- The right to have a family member or person of his or her choosing immediately informed of his or her detention and place of detention.
- The right, at his or her request, to be examined by a physician upon admission, arrest or detention.
- The right to have access to a lawyer from the outset of his or her deprivation of liberty or access to the assistance of a person of his or her choosing and prompt access to legal aid, where appropriate.
- The right to be brought before a judge without delay and to have the legality of his or her detention examined by a court in accordance with the legislation in force.
- The right to be informed, in a language that he or she understands, of the rights listed above and of the possibility of requesting legal aid.
- The obligation of the detaining authority to keep an up-to-date register containing the following information: the identity and state of health of the person deprived of his or her liberty; the date, time and reason for the deprivation of liberty; the name of the authority that deprived the person of liberty; the date and time of release or transfer to another place of detention; and the place to which he or she has been transferred and the authority overseeing the transfer.

Failure to observe these safeguards will result in the imposition of disciplinary sanctions or criminal proceedings, as appropriate."

(b) The State party should release and compensate all persons who have been detained arbitrarily.

21. There are no arbitrarily detained persons.

(c) The State party should abolish the provision under which people may be held in police custody for a 15-day period in connection with terrorist offences or crimes that threaten national security and establish a maximum 48-hour period instead.

22. On the initiative of the Mauritanian authorities, the legislation on combating terrorism is currently being assessed by the Executive Directorate of the United Nations Counter-Terrorism Committee, the United Nations Office on Drugs and Crime and the United Nations Development Programme. The purpose of the assessment is to adapt national legislation to developments in terrorism and international legislation while respecting human rights.

(d) The State party should introduce an amendment to Act No. 2010-043 on combating terrorism to restrict its scope in a manner that will avert arbitrary arrests and forms of treatment that are prohibited under the Convention.

23. The previous response reflects the desire of the Government of Mauritania to establish an effective legal arsenal in the fight against terrorism and to safeguard the rights of persons accused in that regard.

5. Incommunicado detention and enforced disappearances

(a) The State party should ensure that a register is kept of all persons deprived of their liberty and that the register is up-to-date and made available to all competent judicial authorities. The information in the register should include: (i) The identity of the person deprived of his or her liberty; (ii) The date, time and place at which the person was placed in detention and the name of the official or body who deprived him or her of liberty; (iii) The reasons for the detention; (iv) The official or body overseeing his or her detention; (v) Notes on his or her state of health; (vi) If the detainee dies in custody, the circumstances and causes of death and the place to which the body will be taken; and (vii) The time and date of his or her release or transfer to another place of detention and, where applicable, the place to which he or she was transferred and the official or body overseeing the transfer.

24. Such a register is kept at each place of detention. In police and gendarmerie stations, it is initialled by the competent public prosecutor and subjected to the oversight of this authority and the General Inspectorate of Court and Prison Administration. The information contained in the register is used to determine the direction of criminal policy. In prisons, there are a number of registers related to detainees and health-care staff.

25. Furthermore, computer software makes it possible to monitor the judicial status of prisoners on a daily basis and to determine who is responsible for any delays in handling their status.

(b) Promptly incorporate a definition of the crime of enforced disappearance in national legislation.

26. The deliberations on criminal policy that are under way aim to complement and harmonize punitive legislation. This involves defining all crimes, including enforced disappearances.

(c) The State party should take effective steps to ensure that thorough, independent and impartial investigations are conducted, without delay, into all allegations of torture or ill-treatment, that the perpetrators of such acts are brought before the courts and that appropriate penalties are imposed upon them.

27. Acts of torture come within the remit of the prosecutor's office, which conducts the necessary investigations in accordance with the Code of Criminal Procedure.

28. The NPM also has the necessary powers to carry out such investigations. Its status allows it to conduct the necessary investigations independently and, if necessary, to notify the authorities, who initiate the prosecution mechanisms provided for by law.

6. Order from a superior

(a) The State party should ensure, both by law and in practice, and in accordance with article 2 (3) of the Convention, that the execution of such an order cannot be invoked as a justification for torture.

29. Article 15 of the Act on Punishment of the Crimes of Slavery and Torture has addressed this question by providing that "no one shall be punished for disobeying an order to commit an act that is equivalent to torture or cruel, inhuman or degrading treatment or punishment".

(b) The State party should also introduce a system for protecting subordinates from reprisals if they refuse to obey an order from a superior that would be in violation of the Convention.

30. The previous reply addresses the provision of this protection, which is the responsibility of the Government.

7. National Human Rights Commission

(a) The State party should provide the Commission with the financial and human resources it needs in order to fulfil its mandate, to publicize its recommendations and to reinforce its independence in full conformity with the Paris Principles (General Assembly resolution 48/134).

31. The National Human Rights Commission, which was established in 2006, was raised to the status of a constitutional body in 2012. It is an advisory institution for the promotion and protection of human rights throughout the entire national territory.

32. The Commission is an independent public institution with administrative and financial autonomy.

33. The Commission's independence is demonstrated by the manner in which its members are appointed, dismissed and protected. The members are elected by their peers or, in some cases, appointed by the President in consultation with the Commission.

34. This independence is also demonstrated by the specific procedure used to recruit staff and by the fact that its finances are independently managed.

35. The Commission's independence is strengthened by the fact that three quarters of its members are elected. Of the Commission's 27 members, including the Chairperson, 20 are from professional or civil society organizations or democratic and judicial institutions. They are elected by their constituents and have the right to vote.

36. The seven non-voting members who represent the Government are appointed by the various departments concerned with human rights, in accordance with the criteria laid down in the statutes of the Commission, and are appointed by the President of the Republic for three years. They take an oath before the President of the Supreme Court.

37. The members of the Commission are subject to rules on the incompatibility of functions. Membership is therefore incompatible with belonging to the executive body of a political party, while the office of the Chairperson of the Commission is incompatible with the exercise of any political mandate, any private, public, civilian or military employment, any professional activity or any position in the national parliament.

38. At the beginning and end of their mandates, the Chairperson and the Secretary General of the Commission declare their assets to the President of the Supreme Court.

39. The immunity of serving members, which continues after the termination of their mandates, consolidates the independence of the Commission. This immunity is expressly provided for by the law, which stipulates that "no member may be prosecuted, searched, arrested, detained or tried for opinions expressed or votes cast in the performance of his or her duties, even after the termination thereof".

40. In the exercise of their duties, the members of the Commission may not receive instructions from any authority. The instruments and mechanisms used for communication, research and the implementation of its mandate consolidate its independence. The Commission submits an annual report on the national human rights situation to the President of the Republic.

41. This report provides the Commission with an effective instrument through which to exercise its independence. In addition, that independence is strengthened by reports on specific issues and reasoned statements.

42. The Commission may hear any person and obtain any information and any document required to assess situations that fall within its competence. These powers are exercised in particular when complaints are investigated and during fact-finding visits.

43. The Commission can address the public through the press. It publicizes its activities on television, on the radio and in print media.

44. In carrying out its work, the Commission may request the aid or assistance of any public or private body.

45. The members of the Commission are appointed in accordance with "the principle of pluralism and reflect the social and cultural diversity of Mauritania", without prejudice to the criteria of competence, good character and commitment to the field of human rights that every member of the Commission must satisfy.

46. The members include persons from human rights NGOs, trade unions, media organizations, *ulama* (Moslem scholars) and higher education establishments, as well as magistrates, lawyers, parliamentarians and representatives of agencies concerned with human rights issues.

47. The 20 voting members are appointed as follows:

- Four are chosen, *intuitu personae*, by the President of the Republic from among independent persons, with one vote.
- Two members are appointed by the National Assembly and the Senate after consultation with the Commission and in accordance with the criteria provided for by law.
- One member is appointed by professional organizations of judges.
- One member is appointed by the Faculty of Law.
- One member is appointed by the National Bar Association.
- One member is appointed by the national association of *ulama* (Muslim scholars).
- Three are appointed by human rights NGOs.
- One is appointed by women's rights NGOs.
- One is appointed by children's rights NGOs.
- One is appointed by associations of persons with disabilities.
- Two are appointed by trade union associations.
- One is appointed by the association of journalists.

48. The seven non-voting members representing the Government are representatives of:

- The Office of the President of the Republic
- The Office of the Prime Minister
- The Ministry of Justice
- The Ministry of the Interior and Decentralization
- The Ministry of Foreign Affairs and Cooperation
- The Ministry of Social Affairs, Children and the Family
- The Commission on Human Rights and Humanitarian Action

49. Members receive an attendance allowance.

50. The State provides the Commission with a head office.

51. The structure of the Commission is as follows:

- A plenary assembly comprising 27 members
- One executive with five members, chaired by the President
- Five subcommittees, each with five members
- Ten working groups
- Thirty staff employed under contract

52. The Chairperson is assisted by a Secretary-General, to whom he or she may delegate the power to sign some administrative documents. The staff employed by the Commission are governed by the Labour Code.

53. The make-up of the staff reflects the principle of pluralism: 26 per cent of the Commission's 30 employees are women and 10 per cent are persons with disabilities. All ethnic groups are represented.

54. The Commission has put in place mechanisms to make it more accessible to the public. These include:

- "Active lawyers"
- "Available social workers"
- "Links with civil society"
- "The migrants service"

55. The public authorities have provided the Commission with a budget, which is reflected in the National Budget Act adopted each year.

56. The Commission also benefits from projects funded by technical and financial partners and receives the support of the Office of the United Nations High Commissioner for Human Rights.

57. The recommendations of the Commission are regularly disseminated.

8. National Preventive Mechanism against Torture

The State party should take the appropriate steps, in consultation with all stakeholders, to establish a national preventive mechanism in accordance with article 3 of the Optional Protocol to the Convention by October 2013 and to provide it with the financial and human resources that it needs in order to carry out its work effectively on an entirely independent basis in accordance with articles 3 and 17 of the Optional Protocol and the Guidelines on National Preventive Mechanisms (CAT/OP/12/5).

58. The NPM was established by Act No. 2015.034 of 10 September 2015. It has financial and administrative autonomy. In accordance with its mandate, the NPM does not receive instructions from any authority.

59. The financial resources required for its operation and the implementation of its missions are specifically provided for in the budget allocated to it. It may also receive gifts and legacies. It prepares its budget and carries it out in accordance with public accounting rules.

60. The NPM is authorized to visit all places that are or may be under the jurisdiction or control of the Mauritanian State and places that have been established with its consent in which persons deprived of their liberty are or may be found following a decision by a public authority, at that authority's behest or with its express or tacit consent.

61. The following are regarded as places of detention:

- Prisons
- Centres for the rehabilitation of minors in conflict with the law
- Police custody facilities
- Psychiatric institutions
- Holding centres
- Transit zones
- Border posts

9. Independence of the judiciary

(a) The State party should guarantee the full independence of the judiciary, in accordance with the Basic Principles on the Independence of the Judiciary (General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985).

62. The Constitution guarantees the separation of powers, thereby ensuring that the judiciary is independent from the executive and the legislature.

(b) The State party should take appropriate measures to guarantee and protect the independence of the judiciary and ensure that its operations are free from any pressure or interference from the executive.

63. The principle of irremovability ensures the independence of the judiciary. The specific management of judges' careers by the Supreme Council of the Judiciary, which comprises judges elected by their peers, strengthens their independence.

(c) The State party should provide the courts and judges with the support they need to operate in a wholly independent manner, including the necessary human, technical and financial resources.

64. A large budget is allocated to the judiciary and staff are recruited to the Ministry of Justice on an ongoing basis, with an average of 50 judges being recruited every two years.

(d) The State party should establish an independent body to review disciplinary decisions.

65. Where disciplinary matters are concerned, the reform of the regulations governing the judiciary includes measures that enable each judge to benefit from a right of appeal within the body responsible for managing judges' careers.

(e) The State party should invite the Special Rapporteur on the independence of judges and lawyers to visit the State party.

66. The country remains open to all requests for visits by United Nations special rapporteurs.

10. Non-refoulement, migrants, refugees and asylum seekers

(a) The State party should ensure that no one, regardless of whether he or she is in the country in an irregular situation, is expelled, extradited or returned to a State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture, that decisions in this connection are taken on the basis of an examination of each person's individual case and that the persons concerned can appeal against such decisions.

67. The Act on Punishment of the Crimes of Slavery and Torture prohibits expulsion, refoulement and extradition if the person concerned would be at risk of being tortured. Without prejudice to the principles governing the extradition procedure, no person may be expelled, returned or extradited to a State where he or she would be at risk of being tortured.

68. In such cases, domestic courts are competent to bring individuals to trial to determine whether the events leading to extradition are covered and punishable under current Mauritanian legislation or if they constitute an international crime.

(b) The State party should ensure that any person who is detained in connection with the effort to combat irregular immigration has access to an effective judicial remedy which allows that person to challenge the legality of administrative decisions regarding his or her detention, expulsion or refoulement.

69. Access to justice is free. The Legal Aid Act allows persons on low incomes to receive free legal services. In common with other individuals, migrants enjoy access to

justice and are not subject to expulsion until the deadlines for filing an appeal against their expulsion or for exercising such an appeal have expired.

70. If such an appeal is filed, the decision to expel the person concerned is suspended until the final decision has been issued by the competent court.

(c) The State party should ensure that asylum seekers are held in detention only as a last resort and, if this becomes necessary, that they are held for as short a time as possible and that use is made of alternatives to detention whenever feasible.

71. Requesting asylum is not an offence. Asylum seekers are not criminals. They are not detained unless they commit an offence.

(d) The State party should issue identity documents to Mauritanians who were expelled in the past and then repatriated, as well as to their family members.

72. The repatriation operation aimed at expelled Mauritanians enabled 24,536 persons to return. The persons concerned were distributed among 5,817 families in 118 specially adapted sites located in five of the country's *wilayat* (provinces) (Assaba, Brâkna, Gorgol, Guidimakha and Trarza). On 25 March 2012, the completion of the operation was marked by a ceremony in Rosso attended by the President of the Republic and the United Nations High Commissioner for Refugees. The State has taken steps to integrate the returnees into economic and social life.

73. With regard to the registration of refugees, the National Agency for the Registration of Persons and Secure Documents has carried out the following measures:

- Opened reception centres specifically for returnees in the *wilayat* of Assaba, Brâkna, Gorgol, Guidimakha and Trarza.
- Issued birth certificates on the basis of the civil status-oriented administrative census.

74. These measures have resulted in:

- The creation of a database.
- The issuance of civil status documents to returnees.
- The establishment of a commission comprising representatives of returnees that is responsible for ruling on pending cases.

75. The programmes initiated by the former National Agency to Assist and Integrate Refugees are now being conducted by the Tadamoun National Agency.

76. Persons who do not fulfil the requirements have not been granted a civil status.

11. Training

(a) The Committee recommends that the State party establish training programmes and develop modules on human rights to ensure that security and law enforcement personnel are fully aware of the provisions of the Convention and particularly of the absolute prohibition of torture.

77. Training modules are provided in police academies. The in-service training of judges focuses on the prevention of torture.

(b) The Committee recommends that the State party provide training in respect of the Istanbul Protocol on a regular and systematic basis to medical personnel, forensic doctors, judges, prosecutors and all other persons involved in the custody, interrogation or treatment of any individual who is arrested, detained or imprisoned, as well as to anyone else involved in investigations into cases of torture.

78. The training provided on the Act on Punishment of the Crimes of Slavery and Torture benefits all those who work in the criminal justice system. In this connection,

seminars on the prevention of torture were held in 2015 and 2016 for all stakeholders in the criminal justice system.

(c) The Committee recommends that the State party develop and apply a methodology for evaluating the effectiveness of educational and training programmes dealing with the Convention against Torture and the Istanbul Protocol and for assessing their impact in helping to reduce the number of cases of torture or ill-treatment.

79. Judges are assessed and rated on their implementation of the provisions of the Convention against Torture.

12. Investigations

(a) The State party should put an end to torture and to inhuman and degrading treatment, and ensure that allegations of torture, ill-treatment or excessive use of force by police or security forces are promptly investigated, that the persons concerned are prosecuted and convicted, as applicable, and that the penalties imposed are commensurate with the gravity of the offences committed, in line with the commitment made by the State party during the universal periodic review in November 2010.

80. In accordance with the universal periodic review of Mauritania, emphasis has been placed on raising awareness of the provisions of the Convention against Torture and on accountability in the context of missions carried out by the security forces. Professional and criminal responsibility may accordingly be incurred in the event that the law is violated.

(b) The State party should introduce a provision in the Criminal Code establishing that the crime of torture is not subject to any statute of limitation.

81. The Act on Punishment of the Crimes of Slavery and Torture establishes the legal regime for the prohibition, prevention and punishment of acts of torture and other cruel, inhuman or degrading treatment or punishment, as well as redress and protective measures for victims.

82. Under the Act, torture and other cruel, inhuman or degrading treatment or punishment are considered to be crimes against humanity. These crimes are imprescriptible.

(c) The State party should provide the Committee with detailed information on the investigations conducted into the death of Hassane Ould Brahim in October 2012 in the Dar Naïm prison, and on their follow-up.

83. With regard to the investigations into the death of Hassane Ould Brahim, which occurred in Dar Naïm prison in October 2012, the criminal court of Nouakchott, acting in accordance with decision No. 108 of 7 March 2012, handed down sentences ranging from 1 to 4 years' imprisonment to eight members of the National Guard for carrying out acts of torture on two detainees.

13. Amnesties and impunity

(a) The Committee recommends that the State party amend the Act No. 92-93 on Amnesty and take all necessary steps to combat impunity with respect to acts of torture by, inter alia, making effective remedies available to victims and their dependants.

84. The State has affirmed its commitment to fighting torture through the established legal and institutional framework, by making that framework available to all persons and through the jurisprudence that it has produced.

(b) The Committee recommends that the State party ensure that victims and their relatives who seek reparation are protected from reprisals and intimidation.

85. The protection in question is provided by the Act on Punishment of the Crimes of Slavery and Torture. Victims of torture or ill-treatment therefore receive legal assistance under the conditions laid down by the law.

86. Victims of torture and ill-treatment, witnesses and those conducting investigations and their families are provided with support and protection against violence, threats of violence or any other form of intimidation or reprisal made as a result of complaints, hearings, statements, reports or investigations. These measures are established by decree.

14. Redress and rehabilitation for victims of torture

(a) The State party should adopt legislative and administrative measures to ensure that victims of torture and ill-treatment obtain redress, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, and introduce these into its body of criminal law.

87. In accordance with the Act on Punishment of the Crimes of Slavery and Torture, victims of an act of torture have the right to obtain redress from the perpetrator of that act. The State provides victims with fair and appropriate compensation, including the means required for them to achieve the fullest possible rehabilitation through, inter alia, appropriate medical care and medical and social rehabilitation.

88. When the authorities or any person acting in an official capacity have committed acts of torture or ill-treatment, or if they have become aware or had reasonable grounds to believe that such acts have been committed and have failed to exercise due diligence to prevent them, investigations or proceedings are initiated against the perpetrators in order that they may be punished in accordance with the legislation in force. The perpetrators are obliged to provide redress to the victims of these acts.

89. Moreover, under the Act on Punishment of the Crimes of Slavery and Torture, redress for damages suffered by the victims of torture and ill-treatment as a result of acts committed by public officials or other persons acting in an official capacity, at their behest or with their consent or acquiescence, is provided under ordinary law.

(b) The State party should amend the Criminal Code to remove references to qisas penalties. In this regard, the Committee draws the attention of the State party to its recently adopted general comment No. 3 (2012) on article 14 of the Convention, which explains and clarifies the content and scope of the obligations of States parties with regard to the full redress to which victims of torture are entitled.

90. The mechanism established by the Act on Punishment of the Crimes of Slavery and Torture ensures that victims of torture receive redress in accordance with the provisions of the Convention.

15. Application of the prohibition of slavery-like practices

(a) The State party should include a provision in the Criminal Code that defines and specifically criminalizes racial or ethnic discrimination, including slavery-like practices, and that sets out penalties commensurate with the gravity of the acts in question.

91. The first article of the Constitution states that "the Republic guarantees all citizens equality before the law without distinction as to origin, race, sex or social status. All propaganda of a racial or ethnic nature is punishable by law."

92. In this regard, the Government has developed an action plan that comprises political, economic and social measures to prevent and combat racial discrimination, xenophobia and intolerance. The plan ensures that Mauritania's international commitments are implemented.

93. The effectiveness of this action plan stems from an anti-discriminatory legal framework that introduces specific provisions defining racist offences and enabling any racist motive to be considered as an aggravating circumstance for the purposes of sentencing. A bill has been drafted by the Department of Justice and submitted to the Government for approval. The first chapter of this bill contains general provisions, including all the definitions required to tackle this phenomenon. The second chapter summarizes the penalties applicable to offences involving racism and discrimination, while the third chapter contains the final provisions.

(b) The State party should include a definition in Act No. 2007-048 of 3 September 2007 that covers all forms of slavery, as well as provisions concerning redress and rehabilitation measures for former slaves.

94. The amendments to the Constitution that define slavery as a crime against humanity and the road map adopted by the Government on the eradication of contemporary forms of slavery, adopted on 6 March 2014, have been incorporated in Act No. 2015-031 of 10 September 2015, repealing and replacing Act No. 2007-048 of 3 September 2007 on Classification of Slavery as a Criminal Offence and Suppression of Slavery-like Practices.

95. The Act contains a series of definitions in a preambular article that facilitate its implementation by using clear and precise terminology in relation to slavery. Its article 1 (bis) and a new article 2 incorporate the definitions set out in the Slavery Convention and affirm that offences relating to slavery and slavery-like practices are imprescriptible.

96. Articles 6 to 9 toughen the penalties for slavery and slavery-like practices by bringing them into line with the penalties provided for crimes.

97. The Act establishes domestic jurisdiction over offences relating to slavery and slavery-like practices and ensures that victims of slavery-like practices benefit from legal assistance and proceedings that are free of charge.

98. It enables courts to issue decisions awarding compensation to victims of slavery and slavery-like practices, notwithstanding the available legal remedies, and requires courts to urgently take any interim measures against offenders that might be needed to protect the rights of victims.

(c) The State party should amend Act No. 2007-048 of 3 September 2007 so that victims of slavery or related practices may cause criminal proceedings to be initiated by suing for damages.

99. Act No. 2015-031 of 10 September 2015, repealing and replacing Act No. 2007-048 of 3 September 2007 on Classification of Slavery as a Criminal Offence and Suppression of Slavery-like Practices, has strengthened the protection of victims and provided them with the means to swiftly initiate criminal proceedings.

100. Under penalty of being charged with misuse of authority, any competent judge, when informed of facts concerning one or more offences relating to slavery, must urgently take every appropriate protective measure against alleged perpetrators in order to guarantee the rights of victims.

101. Any recognized human rights association is empowered to report violations of this law and to assist victims.

102. Every public-interest association and every association for the defence of human rights and the fight against slavery and slavery-like practices that has had legal personality for at least 5 years at the time of the offence may take part in court proceedings, and sue for damages in all disputes involving the application of the new Act, without being granted any pecuniary advantage.

103. Victims of offences involving slavery receive legal assistance and are exempt from all fees and costs, which are met by advance payments against the criminal justice costs to be charged to the unsuccessful party.

104. Any court seized of an offence involving slavery and slavery-like practices is required to safeguard the victims' rights to redress.

105. Court decisions awarding damages to victims of slavery and slavery-like practices are binding, notwithstanding objections and appeals.

(d) The State party should provide specific training modules in order to raise the awareness of judges and members of the legal profession as a whole about racial discrimination and about the fact that, in accordance with international standards, it is a prosecutable offence.

106. Approval of the bill criminalizing discrimination will be accompanied by a series of awareness-raising and outreach actions for those working in the judicial system. Activities in this area have also been planned as part of the action plan against discrimination.

(e) The State party should develop a comprehensive national strategy for combating both traditional and modern forms of slavery and discrimination, which include the practices of early and forced marriage, servitude, forced child labour, human trafficking and the exploitation of domestic workers, in line with the commitment made by the State party during the universal periodic review in November 2010.

107. As part of its multidimensional approach to combating the consequences of slavery, the Government, in addition to adopting the Act criminalizing slavery and suppressing slavery-like practices, has established an institution for eradicating the consequences of slavery, for social integration and for action to fight poverty. The institution in question is the Tadamoun National Agency. At the instigation of religious leaders, and with the involvement of civil society organizations, it has implemented programmes to raise awareness of the unlawfulness of slavery and to disseminate the Act.

108. At the judicial level, the Government has established special courts for offences related to slavery and ensures that judges and stakeholders are trained in implementing the laws criminalizing and penalizing slavery.

109. The road map, developed with the participation of the Government departments involved in combating the consequences of slavery and with civil society, has been approved by Mauritania's technical and financial partners and endorsed by the Special Rapporteur on contemporary forms of slavery.

110. The road map comprises 29 recommendations related to legislation, economic and social matters, and the awareness-raising needed to eradicate the consequences of slavery.

111. At the judicial level, the road map recommends that the law be reviewed to ensure that it incorporates new forms of slavery and measures on discrimination. In economic terms, it focuses on establishing a high-level authority to combat the consequences of slavery and providing support for victims, while ensuring that perpetrators are ordered to provide compensation.

112. The road map gives priority to banning companies from practising forced labour and child labour and highlights the need to work in partnership with civil society to counter the consequences of slavery. It also recommends that a committee be established to monitor the implementation of programmes and activities.

113. The adoption of the road map has strengthened the effectiveness of the Government's fight against the consequences of slavery and has allowed victims to be integrated more effectively. An interministerial committee oversees the implementation of the road map.

16. Conditions of detention

(a) The State party should redouble its efforts to bring living conditions in all prisons into line with international standards and with the Standard Minimum Rules for the Treatment of Prisoners (United Nations Economic and Social Council, resolutions 663 C (XXIV) and 2076 (LXII)) and increase the funding allocated for that purpose.

114. The Government monitors places of detention and ensures improvements in prisoners' hygiene, nutrition and leisure conditions.

115. Prison inspections are initially carried out by the General Inspectorate of Court and Prison Administration. The Office of Criminal Affairs and Prisons Administration carries out internal inspections which supplement inspections of safety conditions. Lastly, the Prison Commission monitors the legal status of inmates and their health, food and conditions of detention.

116. Conditions of detention have been improved by the Government, which has made changes to facilities, finances and staff in order to ensure that prisoners can serve their sentences in dignity.

(b) The State party should ensure all prisoners have access to drinking water, at least two meals per day, hygiene and basic necessities; make sure there is sufficient natural and artificial light and ventilation in cells; and provide medical and psychosocial care for prisoners with a view to preventing deaths in detention.

117. The State provides, inter alia, free food and health care to detained persons throughout their period of detention.

118. In accordance with the law, sick prisoners are provided, free of charge, with health care, pharmaceutical products and proprietary medicinal products.

119. The prisons in Nouakchott (Dar-Naim, the central prison and the women's prison) each have a health centre.

120. Pharmaceutical products (medicines), proprietary medicinal products, examinations and equipment are made available to patients. Medical care is provided to a significant number of individuals.

121. The prisons in Nouakchott and Nouadhibou are connected to the piped drinking water system. These prisons receive water whose quality is validated by the health services. Other prisons have water supplied from tanks.

122. Daily meals are funded by the budget of the Ministry of Justice in accordance with the number of prisoners.

123. Lighting and ventilation standards are taken into account in the cells of new prisons.

124. The medical care provided to prisoners includes psychological counselling.

(c) The State party should reduce prison overcrowding by making greater use of non-custodial measures, in line with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules).

125. A prisoner transfer operation has been carried out to balance the distribution of the prison population among the various prisons. The operation also aimed to relieve overcrowding in prisons in Nouakchott.

126. The implementation of this operation was also an opportunity to provide prisons with bedding and the equipment required for them to operate, thereby ensuring that inmates enjoy humane living conditions.

127. During the operation, prisoners were treated normally, the usual security conditions were maintained and the legal status of prisoners was taken into account. In addition, the necessary steps are immediately taken to transfer cases from sending courts to recipient courts, to ensure that individuals receive a fair trial within a reasonable time period.

128. The Ministry of Justice has also organized training for prisoners to facilitate their entry into the labour market.

(d) The State party should establish a central register of all prisoners in the country in which it is indicated whether they are remand prisoners or sentenced prisoners, the offence in question, the date on which they were taken into custody, the place where they are being held, and their age and gender.

129. The Ministry of Justice, in partnership with the United Nations Development Programme and the National Agency for the Registration of Persons and Secure Documents,

is finalizing the project to develop two applications for issuance of criminal records and one application for management of prisoners.

130. The United Nations Development Programme has acquired all the equipment needed for this purpose and placed it with the National Agency for the Registration of Persons and Secure Documents.

131. The application will be fed by data from the judicial register of the Prisons Registry, which contains full information on prisoners and the status of their records.

(e) The State party should ensure that prisoners have genuine access to a means of filing a complaint with an independent body regarding their conditions of detention and/or ill-treatment and that impartial, independent investigations into such complaints are promptly carried out.

132. This body already exists. The body in question is the NPM.

(f) The State party should conduct formal investigations into deaths in detention and their causes, provide the Committee with statistics and other information on the preventive measures taken by the prison authorities in the next periodic report and take measures to reduce violence among prisoners.

133. The list of prisoners who have died is drawn up by the Ministry of Justice. In 2015 and 2016, 16 prisoners died as a result of illness (8 in 2015 and 8 in 2016). Of this number, 13 were held in Nouakchott, one in Kaédi, one in Kiffa and one in Birmoghrein.

134. Measures that have helped to reduce and prevent violence in prisons include transferring prisoners to less populated prisons to reduce prison overcrowding, grouping prisoners together in accordance with their offence, using alternative measures to detention, and exercising the right of pardon.

(g) The State party should continue to ensure that the National Human Rights Commission and other human rights organizations have unhindered access to all places of detention, which includes the ability to make unannounced visits and to hold private interviews with detainees.

135. The National Human Rights Commission has the right to make unannounced visits to places of detention, a right that it exercises independently. The NPM also exercises this right in accordance with the legislation in force. Several NGOs have established agreements with the Ministry of Justice and have the right to visit prisons in accordance with the workplan established for that purpose.

17. Trafficking in persons and violence against women

(a) The State party should ensure the effective enforcement, in full compliance with the Convention, of existing anti-trafficking laws.

136. Implementation of the Act on Trafficking in Persons and the Act on Criminalization of the Smuggling of Migrants is the responsibility of the Prosecutor's Office, which oversees police investigations in that regard. An investigations office set up specifically for this purpose then carries out the necessary investigations in this area. Lastly, the criminal courts have competence to try these offences throughout the country.

(b) The State party should conduct a study to determine the actual extent of human trafficking in the State party and its causes.

137. Several independent studies of trafficking in Mauritania have been conducted. The data collected and the recommendations made in the light of these studies have been introduced into the action plan to combat trafficking in persons prepared by the Commission for Human Rights and Humanitarian Action. This body has taken stock of the situation and established a series of actions that will be taken to prevent trafficking, prosecute traffickers and, where appropriate, support victims of trafficking.

(c) The State party should put an end to impunity by conducting formal investigations into allegations of rape, trafficking and domestic violence, prosecuting the perpetrators and imposing appropriate punishments on them.

138. Allegations of rape are systematically investigated and, if need be, the perpetrators are punished. The statistics on rape recorded by the Prosecutor's Office of the court of Nouakchott wilaya are: 45 cases in 2013; 39 cases in 2014; and 15 cases in 2015. The sentences handed down range from 10 to 20 years' imprisonment.

(d) The State party should offer victims protection, sufficient compensation and rehabilitation services, as necessary, and step up its awareness campaigns.

139. Under the Act on Punishment of the Crimes of Slavery and Torture, redress for damages suffered by the victims of torture and ill-treatment as a result of acts committed by public officials or other persons acting in an official capacity, at their behest or with their consent or acquiescence, is provided under ordinary law.

(e) The State party should provide appropriate training to investigators and other personnel who come into contact with trafficking victims, including immigration service staff, and provide sufficient resources to the shelters set up for victims.

140. The action plan to combat trafficking in persons provides for resources, training and an appropriate legal framework to combat trafficking in persons.

18. Female genital mutilation

(a) In line with the commitment that it made during the universal periodic review in November 2010, the State party should urgently adopt a law prohibiting female genital mutilation.

141. The draft code on the general protection of the child contains provisions that criminalize female genital mutilation.

(b) The State party should also make it easier for victims to file complaints and should carry out inquiries, prosecute the perpetrators, impose appropriate penalties on them and provide victims with suitable redress, including compensation or rehabilitation. It should, furthermore, expand the scope of campaigns to raise awareness, particularly among families, of the harmful effects of this practice.

142. Strategies for the eradication of female genital mutilation are being implemented by the Department of Social Affairs. They include components on awareness-raising, training and care for victims of this practice.

19. Corporal punishment

(a) The State party should amend its criminal legislation, including Ordinance No. 2005-015 on the judicial protection of children, to prohibit and explicitly penalize any form of corporal punishment of children in all places and contexts, including within the family, and enforce the principle of education without violence in accordance with article 28, paragraph 2, of the Convention on the Rights of the Child.

143. The draft children's code criminalizes corporal punishment.

(b) The State party should carry out programmes involving children, families, communities and religious leaders to educate, sensitize and mobilize the general public about the harmful effects of corporal punishment on the physical and psychological development of the person.

144. The child protection strategy, the social protection strategy and the national education programme prohibit corporal punishment in educational establishments and within the family. They include awareness-raising activities in this area.

20. Data collection

(a) The State party should establish an independent body to generate and process statistical data, disaggregated by the age and gender of victims, for use in monitoring the implementation of the Convention at the national level. Such statistics should, in particular, cover complaints, investigations, prosecutions and convictions related to acts of torture and ill-treatment attributed to security service agents, including gendarmes, police officers and prison staff, as well as deaths in detention.

145. Statistics on offences are compiled and disaggregated by the Prosecutor's Office.

(b) Statistics should also be compiled and made available on trafficking in persons and violence against women and female genital mutilation, as well as on the means of redress, particularly compensation and rehabilitation services, available to victims.

146. Statistics on rape have been provided in previous replies. The redress granted to victims is of a civil nature. Victims are treated and cared for free of charge in public institutions. Financial compensation depends on the nature of the harm suffered by the victim.

21. Other matters

(a) The Committee encourages the State party to consider making the declaration provided for under article 22 of the Convention, thereby recognizing the competence of the Committee to receive and consider individual communications.

147. The legal and judicial framework contains an abundance of mechanisms and texts for resolving any issue related to implementation of the Convention against Torture.

(b) It also invites the State party to withdraw its reservations to articles 20 (confidential inquiries) and 30 (dispute settlement) of the Convention.

148. Investigations into torture are carried out and disputes related to that crime are settled in accordance with domestic law.

(c) The Committee invites the State party to consider ratifying the core United Nations human rights instruments to which it is not yet a party, namely.

(i) The Optional Protocol to the International Covenant on Civil and Political Rights

(ii) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

(iii) The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

(iv) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

(v) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

149. Mauritania has ratified the majority of international legal instruments on human rights, including the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Efforts to adhere to international standards will continue to be made.

(d) The State party is requested to widely disseminate the report it has submitted to the Committee and the present concluding observations, in the appropriate languages, through official websites, the media and non-governmental organizations.

150. The report submitted to the Committee has been widely disseminated through national and regional seminars and workshops. Civil society has also helped to raise public

awareness of its content. Furthermore, it has been the subject of several conferences and round-table meetings organized through the media.

(e) The Committee requests the State party to provide information on the follow-up given to the recommendations formulated in paragraphs 10 (c); 22 (a) and (b); and 18 (a) of this document by 31 May 2014.

(1) Repeal the provision under which persons may be held in police custody for up to three consecutive periods of 15 days in connection with terrorist acts or threats to national security and strengthen legal safeguards for detainees.

151. An update of all legislation related to the fight against terrorism has been initiated by the Ministry of Justice in partnership with United Nations Office on Drugs and Crime. Its findings will make it possible to incorporate human rights standards into domestic legislation on counter-terrorism.

(2) Improve the conditions of detention in all of the State party's prisons.

152. Prison inspections are initially carried out by the General Inspectorate of Court and Prison Administration. The Office of Criminal Affairs and Prisons Administration carries out internal inspections which supplement inspections of security conditions. Lastly, the Prison Commission monitors inmates' legal status, health, food and conditions of detention.

153. The Government has improved detention conditions in order to provide prisoners with dignified conditions in which to serve their sentences.

(3) Prosecute and punish perpetrators of acts of torture and ill-treatment.

154. The prevention of torture constitutes a priority that is set out in the various government programmes. Under an agreement between the Government and the International Committee of the Red Cross, the latter is authorized to visit all places of detention, including police stations.

155. In accordance with the Code of Criminal Procedure and the Convention against Torture, the administrative and judicial authorities are required systematically to initiate inquiries whenever an allegation of torture is made. The penalties available are those provided for by the Act on Punishment of the Crimes of Torture and Slavery.

156. The National Human Rights Commission and the NPM are authorized to make unannounced visits to places of detention.

157. Awareness-raising and training seminars on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment have been organized for law enforcement officers.

158. Perpetrators of torture are punished under the law, and a national torture preventive mechanism is operational. The criminal court of Nouakchott has sentenced a number of individuals for committing acts of torture.

Conclusions

159. The Government of the Islamic Republic of Mauritania would like to thank the Committee and all the partners that have helped it to implement the recommendations arising from consideration of its initial report.

160. At the same time, the Government would like to express its willingness to continue the constructive dialogue with the Committee with a view to implementing the provisions of the Convention.